

BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
JOBYNA RALSTON ARLEN)

Appearances:

For Appellant: Jerome J. Mayo, Attorney at Law.

For Respondent: W. M. Walsh, Assistant Franchise Tax Commissioner; James J. Arditto, Franchise Tax Counsel.

O P I N I O N

This appeal is made pursuant to Section 19 of the Personal Income Tax Act (Chapter 329, Statutes of 1935, as amended) from the action of the Franchise Tax Commissioner in overruling the protest of Jobyna Ralston Arlen to his proposed assessment of additional tax in the amount of \$1,856.09 for the taxable year ended December 31, 1936.

Political Code Section 52(5) provides:

"The residence of the husband is the residence of the wife." See Art. 2(k)-7, Regulations Relating to the Personal Income Tax Act of 1935.

The issue involved in this appeal is identical, therefore, with the issue involved in the appeal this day decided by us of Richard Arlen, Appellant's husband. Upon the basis of our decision in that appeal, we conclude that Appellant was a nonresident of California during the period in 1936 in which she was outside the State of California.

O R D E R

Pursuant to the views expressed in the opinion of the Board on file in this proceeding, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the action of Chas. J. McColgan, Franchise Tax Commissioner, in overruling the protest of Jobyna Ralston Arlen to a proposed assessment of additional tax in the amount of \$1,856.09 for the taxable year ended December 31, 1936, be and the same is hereby modified. Said action is hereby reversed insofar as the Commissioner based his proposed assessment of additional tax upon the

Appeal of Jobyna Ralston Arlen

determination that Jobyna Ralston Arlen was a resident during the period she was outside the State of California; in all other respects said action is hereby sustained. The Commissioner is hereby directed to proceed in conformity with this order and to send to said Jobyna Ralston Arlen a notice of assessment revised in accordance therewith,

Done at Sacramento, California, this 2nd day of December, 1942, by the State Board of Equalization.

R. E. Collins, Chairman
Wm. G. Bonelli, Member
George R. Reilly, Member

ATTEST: Dixwell L. Pierce, Secretary